



# NEWSLINE

*An Official Publication of the Tennessee Auctioneer Commission  
Tennessee Department of Commerce and Insurance*



Volume XXXI

June 2004

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## Chairman's Report

by James "Jay" Whirley, Chairman

At our last TAC meeting, a letter was read regarding the use of a credit card as payment at an auction. Financial institutions offering credit card services charge transaction fees that range from 1.5% to 5.0%. The fee amount is determined by the financial institution processing the credit card charges.

The licensee having received funds via credit cards deposited in the firm escrow account; the question was posed. Should I continue this practice, have the proceeds deposited into my business account, or write a check to deposit in the escrow account? This question demonstrates that changes are occurring every day in the way we do business.

The TAC discussed the escrow account issue, and concluded the licensee should continue to have proceeds from credit card transactions deposited into his escrow account. He should then deposit a check to compensate for the charges out of his business account. Should the seller agree to pay charges out of proceeds from the sale, there would be sufficient funds in the account without a deposit being made. To make sure the escrow account is in balance, keep sufficient funds in the account at all times to compensate for the average amount of fees that are typically charged.

The question of whether the auctioneer or seller pays the credit card fees is a contractual issue and should be negotiated at the time the auction employment contract is written.

The TAC and I get calls in regard to absolute auctions. The majority of questions asked are with intent to circumvent the law. The concept of an absolute auction is easy to understand. An offer on a piece of real estate or personal property at an absolute auction must be sold to the highest bidder and title must pass. You may cancel an absolute auction when you arrive, to find there are not sufficient bidders to produce an auction with reasonable bid activity. Then you may cancel the auction. Should you open an auction, ask for bids, and accept a bid you are obligated to carry the auction to the end and sell the property. Should you open an auction and no bid is made in a reasonable period of time, you may declare the auction process void and cancel the sale.

You may not convert an absolute auction to a reserve auction on sale day. You may **NOT** convert a reserve auction to an absolute

*(continued on page 2)*

## COMMISSION MEMBERS AND STAFF

### Jay Whirley, Chairman

Term 11/30/00 - 8/31/04

### Terri Walker, Board Member

Term 9/1/02 - 8/31/05

### Howard Phillips, Board Member

Term 9/1/03 - 8/31/06

### Charles Woodard, Board Member

Term 9/1/01 - 8/31/04

### James Brock, Consumer Member

Term 9/1/01 - 8/31/04

### Lynn McGill, Administrative Director

lynn.mcgill@state.tn.us

### Sandra Cooper, Administrative Assistant

sandra.k.cooper@state.tn.us

### Dennis Hodges, Investigator

dennis.hodges@state.tn.us

website: [www.state.tn.us/commerce/boards/auction](http://www.state.tn.us/commerce/boards/auction)

## MISSION STATEMENT:

The mission of the Tennessee Auctioneer Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation.

## STATE OF TENNESSEE

## DEPARTMENT OF COMMERCE & INSURANCE

## TENNESSEE AUCTIONEER COMMISSION

500 JAMES ROBERTSON PARKWAY  
DAVY CROCKETT TOWER, 6TH FLOOR

NASHVILLE, TENNESSEE 37243-1152

615-741-3236 615-741-1245 (Fax)

[www.state.tn.us/commerce/boards/auction](http://www.state.tn.us/commerce/boards/auction)

## COMMISSIONER WOODARD INDUCTED INTO TAA HALL OF FAME



TAC Commissioner and former TAC Chairman Charles Woodard of Dickson, Tennessee, was inducted into the Tennessee Auctioneer Association's Hall of Fame at the TAA's annual convention which was held in Jackson, Tennessee, the first weekend in June. Mr. Woodard is the

owner, broker and auctioneer of Charles Woodard and Associates serving Dickson County and the surrounding area.

Mr. Woodard has been in the real estate and auction business in Dickson County since 1972. He has served three terms as President of the Dickson County Board of Realtors and was selected as Realtor of the Year in 1978. His civic service includes the Dickson County Chamber of Commerce and the Dickson County United Way. He has served as President of the Middle Tennessee Auctioneer Association, Vice-President of the Tennessee Auctioneer Association, RPAC Trustee for the Tennessee Association of Realtors and has served as a Commissioner for the Tennessee Auctioneer Commission since 1995.

Commissioner Woodard and wife Bettie have been married 42 years, have two children, two grandsons and one granddaughter.

We would like to congratulate Charles on his induction into the TAA Hall of Fame. He is most deserving of the honor.

### Continuing Education Sources

by Sandy Cooper

In addition to the three free seminars presented by the TAC each year, there are many approved CE vendors as listed on our website. The providers listed below offer on-line and/or correspondence as well as on-site CE courses. On-line courses in some instances might be more convenient and less expensive for some licensees.

Nashville Auction School Fee: \$85.00 per 3 hour or 4 hour course. Cost for required 6 hours: \$170.00	TREES Fee: \$55.00 per 6 hour course. Cost for required 6 hours: \$55.00
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Please remember, an apprentice is never exempt from continuing education (6 hours) each renewal period.

## FROM APPRENTICE TO AUCTIONEER

by Lynn McGill, Administrative Director

To upgrade to auctioneer status, the apprentice would need to complete an additional 30 hours from an approved school and pass the auctioneer exam.

Should an apprentice auctioneer let his/her license expire, but wants to upgrade to auctioneer, the apprentice auctioneer would need to take six (6) hours continuing education, pay apprentice auctioneer renewal fees and late penalties and have his/her license in good standing.

An apprentice license is in good standing if all requirements are met by the expiration date.

Should an apprentice license expire on May 31, 2004, and he/she decides to upgrade on June 1, 2004, rather than renew as an apprentice, he/she must do the following:

- ◆ Complete 6 hours of approved continuing education (if CE is needed)
- ◆ Pay any late penalty and renewal fee.
- ◆ Take 30 hours and the auctioneer exam.

Should you have any questions please call the Auctioneer Commission at (615)741-3236.

### Chairman's Report (continued from page 1)

auction on sale day by publicly making a declaration. You may open a reserve auction, and, should bidding exceed the minimum placed on the property by the seller, you may convert the reserve auction to an absolute auction to encourage further bidding.

The requirements for an absolute auction is to obligate the seller and auction firm to conduct an auction, where the property will be offered and sold on sale day without reservations or exceptions. "Absolute" means the property is going to sell and the title transfers regardless of price. Should the seller not be willing to make the commitment to sell regardless of price, you need to advertise and hold a reserve auction.

Do not advertise an absolute auction or unreserved auction unless you intend to sell the property to a new owner and transfer title.

I hope this explanation will help you when you get ready to negotiate and advertise an auction.

## Disciplinary Corner

by Dennis Hodges, Investigator

The following is a report of disciplinary and other actions taken by the Commission over the last few months. These cases have been investigated and closed and are now part of the public record.

Although every effort is made to ensure that the information is correct, you should check with the Commission to assure accuracy.

**Linda Arvin Auctions** **Paid: \$0.00**  
**\$1,000.00 Citation issued. Appealed before the Board. Dismissed.**

Respondent conducted auction activity before being properly licensed as a firm/gallery. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11.

**Snappy Auctions.com** **Paid: \$0.00**  
**\$1,500.00 Citation issued. Appealed before the Board. Dismissed.**

Respondent conducted auction activity before being properly licensed as a firm/gallery. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11.

0160-1-.18 ELECTRONIC MEDIA AUCTION LICENSE REQUIREMENT. (1) Any electronic media or computer-generated auction originating from within Tennessee shall conform to the requirements of Tennessee Code Annotated, Title 62, Chapter 19 et seq. (Auctioneer Licensing Law) and the Rules of the Tennessee Auctioneer Commission.

**Middle TN Horse Sales** **Paid: 0.00**  
**\$1,000.00 Citation issued. No longer in business. Dismissed.**

Respondent conducted auction activity before being properly licensed as a firm/gallery. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11.

**Tennessee Truck Auction** **Paid: \$0.00**  
**\$100.00 Agreed Citation issued. No longer in business. Dismissed**

Respondent ran an advertisement that was in violation of 0160-1-.20 ADVERTISING GUIDELINES. (1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale.

**Oriental Rug Depot** **Paid: \$0.00**  
**\$2,500.00 Citation Issued. Appealed. Dismissed with letter of Instruction**

Respondent conducted auction activity before being properly licensed as an apprentice auctioneer. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11.

**Century 21 Howe Realty and Auction**  
**Paid: \$300.00. Agreed Citation Paid**

0160-1-.20 ADVERTISING GUIDELINES.

(3) Advertising for a sale at which some items will be auctioned with reserve and some items will be auctioned without reserve shall clearly and conspicuously indicate this fact to the public. In written advertisements for such a sale, the font size, style and case of the type used in publicizing the part of the sale is to be held without reserve shall not differ from the font size, style and case used to publicize the part of the sale to be held with reserve.

**Century 21 Howe Realty and Auction**  
**Paid: \$500.00. Agreed Citation Paid**

0160-1-.19 TYPES OF AUCTIONS DEFINED.

(1) Absolute auction/auction without reserve - An auction at which property put up for sale is sold to the highest bidder, where the seller may not withdraw the property from the auction after the auctioneer calls for bids unless no bid is made in a reasonable time, where the seller may not bid himself or through an agent, and where the seller will deliver marketable title.

0160-1-.20 ADVERTISING GUIDELINES.

(3) Advertising for a sale at which some items will be auctioned with reserve and some items will be auctioned without reserve shall clearly and conspicuously

**Notice...**

Should you want to be on the agenda at a Commission Meeting, it is imperative that you call Lynn McGill or Sandy Cooper to make arrangements. Anyone not on the agenda, please schedule for the next meeting.

**Disciplinary Report (continued from page 3)**

indicate this fact to the public. In written advertisements for such a sale, the font size, style and case of the type used in publicizing the part of the sale is to be held without reserve shall not differ from the font size, style and case used to publicize the part of the sale to be held with reserve.

**Kenny & Charlotte's Auction House & Thrift Store. Paid: 0.00 \$1,000.00 Citation issued. No further information. Dismissed**

Respondent conducted auction activity before being properly licensed as an apprentice auctioneer. Tennessee Auctioneer Commission Law, § 62-19-102.(a)(1) It is unlawful for any person to: (1) Act as or advertise or represent to be, an auctioneer, apprentice auctioneer, or firm without holding a valid license issued by the commission under this chapter or prior state law: rule 0160-1-.11.



TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE AUTHORIZATION No. 335170, Revised 5/96. This public document was promulgated for 13,200 copies per issue, at a cost of 26 cents per copy, paid by the Tennessee Auctioneer Commission Education and Recovery Fund.

"The Tennessee Department of Commerce and Insurance is committed to principals of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 741-2177 (TDD).

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TENNESSEE AUCTIONEER COMMISSION  
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615-741-3236 615-741-1245 (Fax)  
[www.state.tn.us/commerce/boards/auction](http://www.state.tn.us/commerce/boards/auction)**

**Request for Correct Address****Auctioneer**

Brenda Lindsey  
Farris D Sansom Jr  
William D. Bishop  
James E. Bramblett  
Joseph Choate  
Otto Giles  
Brian Keith Williams  
Frank Trunzo  
Paul Smith  
Raymond L Miller  
Bill Williams Jr.  
Steve Laviola  
Ronald Roach

Jefferson C. Lewis  
Joseph W. Laster  
Charles E. Daniel  
Harry A. Hunt Jr  
Alan K. Hall  
Mark J. Brown  
Donald R. Goff  
Hilton Seay

**Firm and Gallery**

Zone Trader, Inc.  
Auction Gallery and Market  
Copart of Tennessee, Inc.  
Clements Antiques of Texas, Inc.

**Seminar Scheduled for Fall of 2004**

The next scheduled Free Seminar provided by the Tennessee Auctioneer Commission is tentatively scheduled for October at the Knoxville Expo Center located in Knoxville, Tennessee. Details were not yet finalized at the time of this newsletter printing, but a postcard notice will be sent to you prior to the course.

Our topic will be on the auction of firearms and we will have a representative from the Alcohol, Tobacco and Firearms division to speak at this seminar. This course will provide six hours of continuing education credit.